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Testimony of **Ford Fuchigami**
Administrative Director, Office of the Governor

Before the
House Committee on Consumer Protection & Commerce
February 7, 2018
2:00 p.m., Conference Room 329

In consideration of
House Bill No. 1895
RELATING TO HEALTH

Chair Takumi , Vice Chair Ichiyama, and committee members:

Thank you for the opportunity to provide comments in Support for **House Bill 1895**.

The Office of the Governor supports the intent of the measure, provided its passage does not replace or adversely impact priorities as indicated in the Governor's Supplemental Budget.

We appreciate the attention the legislature and this committee is paying to the need for additional resources to help the Department of Health complete initial certifications and recertification surveys for end-stage renal dialysis centers (ESRD) facilities.

It is important to highlight that despite the requirements imposed by Centers for Medicare and Medicaid Services (CMS) to conduct surveys at regular intervals for existing and initial surveys for new facilities, existing facilities with overdue surveys may continue to operate and bill Medicare and private insurance for services.

Our office remains supportive of the Governor's supplemental budget request, though we understand the concern raised about this issue and are happy to continue working with the Department of Health and the Legislature to find solutions to the current circumstances.

We appreciate your attention and will be available to answer your questions, should you have any at this time.

TESTIMONY IN SUPPORT OF HB1895 RELATING TO ECONOMIC DEVELOPMENT

Date: February 7, 2018
Time: 2:00 p.m.
Room Number: Conference Room 329
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Good afternoon Chair Takumi, Vice Chair Ichiyama, and members of the Consumer Protection and Commerce Committee. My name is Glen Hayashida, President & CEO of the National Kidney Foundation of Hawaii (NKFH).

On behalf of NKFH, we strongly support HB1895, which provides part of a solution to the delays in the certification of dialysis centers. This bill represents part of a solution developed by the community partners and the State to solve a long-standing problem in the delays in getting dialysis centers certified and functional.

I would like to take a step back for a brief time so we all have an appreciation for what people on dialysis experience on a daily basis.....

Varying degrees of shock, anger and denial are typical reactions to the initial news of hearing from your doctor that you will need dialysis for the rest of your life in order to keep living .

After some degree of acceptance people receive dialysis treatments three times a week for an average of 4 hours per treatment.

Imagine each of us needing to accommodate such a treatment schedule into our life. Major changes in your lifestyle will need to be made not only in your life but in the lives of your family members. This does not even include all the other physicians and health professionals you need to see to address other health needs such as diabetes or cardiovascular issues.

Patients often say they feel weak, tired, and have very little drive and ambition following each treatment. Often time some level of depression sets in as they begin to live this new and restrictive lifestyle. Feelings associated with loss of control are commonly expressed.

Patients on dialysis require a lot of physical and emotional support. They have to define a "new normal" for themselves but changes are happening to and around them constantly. Medication changes, dietary restrictions, water intake restrictions, water build up, even adjusting to not going to the bathroom.

So for patients on dialysis, this is just their baseline.

For family members, a lot of time and effort not only goes into helping patients remain positive and encouraged. Then imagine hearing that a dialysis center is opening in your community and some of the relief that brings to a patient and family members. Relief from traffic, relief from early morning or late-night treatments - more than just convenience to someone who has little control over their life, more than just convenience from family members who bring their loved one to dialysis treatments 3 times a week. For patients and their caregivers, dialysis treatment starts at home when they start preparing to leave for treatment and ends when they return home. Depending on where the patient needs to be dialyzed it could add another 2-3 hours to this process. This is more than just a convenience...it is a way of life.

But with the delays in certification hope turns into frustration as we dangle this fully functional dialysis center in front of them for 2 -3 years. Instead of helping, we just add to their list of frustrations. I am certain the staff working at the dialysis centers hear over and over again, when is the new dialysis center going to open? Why is taking so long?

HB1895 reflects a solution that was developed by community partners and the State by bringing people together. We strongly support this bill and urge the Committee's support.

Thank you for your time and the opportunity to testify.

**State of Hawaii House of Representatives
Committee on Consumer Protection & Commerce**

**H.B. 1895 Relating to Health
TESTIMONY IN SUPPORT**

**TESTIFIER: Palani Smith, Director of Market Development, Liberty
Dialysis/FMC**

DATE: Wednesday, February 7, 2018

TIME: 2:00 P.M.

PLACE: Conference Room 329

Good afternoon Chair Takumi, Vice-Chair Ichiyama and members of the Hawaii State House Committee on Consumer Protection & Commerce:

Thank you for allowing me to provide testimony IN SUPPORT of HB1895 related to access to care issues for dialysis patients in the State of Hawaii.

It is an honor to speak on behalf of the patients, staff and management of Liberty Dialysis Hawaii and Fresenius Medical Care of North America. My name is Palani Smith and I am the Director of Market Development of Fresenius Medical Care of North America, Hawaii Region. Here in Hawaii we manage 19 dialysis clinics caring for over 2000 patients across the state in perpetuating the mission of the Sisters of St. Francis and Saint Marianne Cope.

Hawaii is a special place for our company. Not just because this is the land of Aloha with warm beaches and soothing tradewinds.. but also because of the culture of Ohana.. family(blood-related and extended). It is not uncommon for us to see family and caregivers suffering along with our in-center patients who undergo an average of 4 hours of treatment 3 days per week because of the logistics and day-to-day planning and activities that they have to engage in to care for our patients. But just imagine those patients who don't have that same extension of Ohana and the everyday struggle they go through... alone ... just to survive. Its truly mind boggling but a fact of life.

Newly built dialysis clinics, from the time construction ends, to the time the federal Centers for Medicare and Medicaid Services (CMS) issues a certification can take up to 3 years. Currently there are 44 patients on waitlists for facilities that are in their local areas (this number dropped because Salt Lake certification was recently approved by CMS). In this two-step process, where Hawaii Department of Health (HDOH) surveys and CMS region 9 in San Francisco certifies, there

seemed to lie a disconnect between the state and federal agencies coupled with a shortage of surveyors in HDOH.

There is no doubt that in the last year major strides have been made to reduce the backlog but only on a temporary basis with \$150,000 of state funding, that originated from this House's finance committee, to pay for out of state surveyors from Arizona to come to Hawaii and reduce the backlog of state surveys. And we appreciate the efforts of HDOH's Office of Healthcare Assurance for coordinating this major push with the temporary surveyors, providers and CMS.

However, as I've stated, this was only a provisional fix. I implore you, Chair Takumi and members of this honorable committee, to seek more permanent solutions such as what is contained in HB1895.

Thank you again for allowing us to share our perspective on this issue which impacts Hawaii's healthcare system and the quality of life of dialysis patients, their families and caregivers. We remain confident that through you and your committee's efforts that resolutions to these issues will be forthcoming.



February 7, 2018 at 2:00 PM
Conference Room 329

House Committee on Consumer Protection and Commerce

To: Chair Roy M. Takumi
Vice Chair Linda Ichiyama

From: Paige Heckathorn
Senior Manager, Legislative Affairs
Healthcare Association of Hawaii

Re: **Testimony in Support**
HB 1895, Relating to Health

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

The Healthcare Association of Hawaii would like to thank the committee for the opportunity to **support** HB 1895, which would provide the Office of Healthcare Assurance (OHCA), housed under the Department of Health, with three additional staff positions to help complete the initial certification and recertification surveys of facilities that provide dialysis surveys. This legislation is important in helping to meet the community demand for dialysis services.

Rates of chronic kidney disease have been rising in Hawaii and the latest data available from 2014 reveals that there were 46,400 people living with the disease in the state.ⁱ In that same year, there were 528 new diagnoses cases per 1,000,000 people in Hawaii, which represents an upward trend.ⁱⁱ While providers are focused on help to prevent chronic disease, we must also be prepared to care for those who require dialysis services immediately. Helping the OHCA to meet these demands, as this legislation does, is critical to meet that goal.

Thank you for your consideration of this matter.

ⁱ http://hhdw.org/wp-content/uploads/BRFSS_Kidney_IND_00001_2011.pdf

ⁱⁱ <http://www.hawaiihealthmatters.org/index.php?module=Indicators&controller=index&action=view&indicatorId=1619&localeId=14>

HB-1895

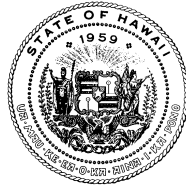
Submitted on: 2/6/2018 1:30:42 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Christie Ramos		Support	No

Comments: Committee on Consumer Protection And Commerce HB1895 Wednesday, February 7, 2018 Good Morning Chair Takumi, Vice Chair Ichiyama, and members of the Consumer Protection and Commerce. My name is Christie Ramos, I am a twice kidney transplant recipient and a former dialysis patient. As a kidney patient, I strongly support the HB1895, which provides solutions to the delays of certifying dialysis centers. I would like to thank you Chair Takumi for taking the time to understand not only the complex issue, but how it affects dialysis patients and that you decided to take action by creating a plan to solve this issue. By taking this action and bringing awareness to this issue, you have helped kidney patients who are receiving dialysis treatments to overcome a barrier that they face here in Hawaii. I would like to tell you a brief story of my experiences as a kidney patient receiving dialysis through the years. Being diagnosed at a young age with ESRD and then being told that I needed dialysis treatments three times a week for 4 hours and 15 minutes gave me many emotions. At first I was in shock and very shortly after in denial. I was in so much denial that I would not call my doctor to start dialysis treatments. Many other emotions entered my mind anger, frustration, sadness and the feeling of being a burden on my family. The feeling of being a burden was hard I still have that feeling sometimes. I had emotional, financial, as well as physical issues. The first four years on dialysis I had seizures and fatigue. The second time on dialysis I developed heart failure and of course the most common side effect muscle cramps. Of all of the emotions I experienced, frustration was a common feeling everyday due to problems with dialysis scheduling times, I was mostly scheduled at night and because of overcrowding I was always given dialysis treatments late, which would mean I would not get out of treatment until after 10pm. There were other reasons for feeling frustrated such as so many changes going on in a short period of time. As for my family, I being on dialysis and having a chronic illness put a lot of stress and anxiety on them. My husband was worried a lot and he tried to support me emotionally and financially as much as he could. My son who is five, would always ask my husband where I was, and he would say at the hospital or at dialysis. My son got used to me being at dialysis that became normal for us. Some days he would say "Mommy you need to go to dialysis" which was on a day I was not scheduled for dialysis. I felt like such a bad mother at times, for not being there for him or not being with him due to dialysis treatments. The scheduling problems took away time from my family that I can't get back. I lived the dialysis and transplant life for almost 13 years now. It's become a way of life for me and my family. The issue with delays in certification of dialysis centers is like seeing a bright light at the end of a long tunnel that seems to go farther and farther away. I believe that the community sees HB1895 as a solution to this issue. Please as a former dialysis patient, I urge the Committee's

support for HB1895 as it will help give dialysis patients a little more control in their lives in a situation where they have very little. Thank you for your time and the opportunity to testify.



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**Testimony COMMENTING on H.B. 1895
RELATING TO HEALTH.**

REPRESANTATIVE ROY TAKUMI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Hearing Date: Wednesday, February 7, 2018 Room Number: 329

1 **Fiscal Implications:** Up to \$315,000 for two (2) nurse surveyors and one (1) nurse supervisor.

2 **Department Testimony:** Thank you for the opportunity to comment. The Department supports
3 the intent of H.B. 1895 and defers to the Governor's supplemental budget request.

4 This bill attempts to provide the Department with three (3) additional staff positions
5 (2 surveyors and 1 supervisor) and state general funding to help complete initial certification or
6 recertification surveys (inspections) on end stage renal dialysis (ESRD) facilities.

7 The number of ESRD facilities is growing significantly nationally and locally.
8 Nationally, from FFY2003 to FFY2017, the number increased 57.6% from 4,441 to 6,998.
9 There are currently twenty nine (29) facilities in Hawaii but we are unable to determine how
10 many there were in 2003. However, four (4) new facilities became certified during the past five
11 (5) years representing a 16% increase, and adding seventy eight (78) in-center dialysis stations to
12 Hawaii's inventory.

13 This bill would specifically benefit the Office of Health Care Assurance (OHCA)
14 Medicare Section. Future funding for these positions should include funding from the federal
15 government (U.S. Centers for Medicare and Medicaid Services (CMS)) since these certification
16 surveys are performed on behalf of the federal government. Federal funding would be for 80%

1 of salary and expenses to be consistent with funding of other OHCA Medicare Section surveyors
2 who perform surveys on behalf of CMS.

3 CMS annually provides to states its priorities on conducting certification and
4 recertification surveys on healthcare facilities. Priorities are listed by Tiers, with Tier 1 being the
5 highest priority and Tier 4 being the lowest priority. Initial certifications of new dialysis
6 facilities is a Tier 3 priority meaning that Tier 1 and Tier 2 facilities are required to be surveyed
7 first. Recertifications of existing dialysis facilities is Tier 2. And each year, we start again on
8 Tier 1 facilities so that we might occasionally or perhaps only rarely get to Tier 3 facilities.

9 There are twenty nine (29) facilities throughout Hawaii with a total of 747 in-center
10 dialysis stations and providing home dialysis to 333 home patients. The Department has
11 received requests from three (3) new facilities for initial certification. The initial certifications
12 would add fifty four (54) in-center stations to Hawaii's inventory. Three (3) certified facilities
13 are requesting an additional twelve (12) in-center stations or to provide in-home services for
14 other patients. Six (6) facilities are currently overdue for their Tier 2 recertification surveys, four
15 (4) will be due during calendar year 2018, and eighteen (18) will be due during calendar year
16 2019. CMS requires dialysis facilities to be recertified at a maximum of every 3.5 years (42.9
17 months) at the Tier 2 priority and, if time allows, at an average frequency of 3.0 years for all
18 facilities at the Tier 3 priority. This means that OHCA should conduct surveys at no greater than
19 three (3) year intervals.

20 To be clear, however, facilities with overdue surveys may continue to operate and bill
21 Medicare and private insurance for payments for services. An overdue survey does not require a
22 facility to cease operations.

1 The Department is working with the U.S. Centers for Medicare and Medicaid Services
2 (CMS) on an Operational Plan to identify ways for OHCA to be able to complete the entire CMS
3 survey workload on a timely basis. Currently, OHCA only has resources available to conduct
4 Tier 1 surveys on skilled nursing facilities (SNF), some intermediate care facilities for
5 individuals with intellectual disabilities (ICF-IID) and other Tier 1 facilities, some Tier 2 or 3
6 facilities as time allows, and on some complaints. OHCA does not have the staffing resources to
7 conduct all the required surveys throughout Tiers 1 through Tier 4.

8 Significant lead time is required to hire and train surveyors. As a result, Hawaii's public
9 and dialysis patients cannot wait for the end result of the Department working with CMS before
10 adding surveyor staff. DOH could obtain and fill the staffing resources identified in this
11 measure, use state general funds in the short-term, then replace 80% of general funds with
12 federal funds once CMS approves the Operational Plan and approves funding for additional staff.
13 If CMS does not approve the Plan or funding, the state could decide at that time whether to
14 continue full general funding of the positions or to redeploy the staff to other needed DOH
15 OHCA survey activities.

16 Thank you for the opportunity to testify on this bill.